IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1237 OF 2004

Chhotalal Hariram Trust & Ors. ..Petitioners

Vs.

State of Maharashtra & Anr. .Respondents

Mr. L.C. Chougule i/b. Mr. O.P. Pandya, for the Petitioners

Mr. S.K. Nair, A Panel Counsel for Respondent Nos. 1, 2 and 3.

Mr. Ramesh Chandra i/b. Shailesh Thakkar & Co., for Respondent No.4.

CORAM : F.I. REBELLO & S.P. KUKDAY,JJ.

DATED : 12th Appril, **2005**

P.C.

. Heard. The issue arises out of a dispute between the petitioner and contesting respondents. It is the case of the petitioner that though he is the owner of the property by forging his signature the documents have been registered which ought not to have been registered by Respondent Nos. 2 and 3. It is based upon this, that the petitioner has filed the present petition.

2. There is already a suit filed by the petitioner herein against the respondent No. 4 in which the prayer clause (a) is for a declaration that the deed of assignment in favour of respondent No.4 is null and void. The basis is

that the petitioners have not signed the said documents. The main issue, therefore, which will have to be decided is whether the said document has been signed by the Respondent NO.4. It is only if the petitioners herein, the plaintiffs therein are able to establish that the said document is creature of fraud and/or the signatures are fraudulent will the other reliefs follow. Considering that in our opinion this would ;not be would not be a stage for this Court to entertain the present writ petition in the exercise of its extra ordinary jurisdiction. It will be open, if the petitioners are so advised, to amend the plaint and seek all such reliefs in the pending suit. With the above observations Writ Petition disposed of.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)